Docket No. AUS920010246US1   *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Dutta et al**	§	
	§	Group Art Unit: **3693**
Serial No. **09/895,097**	§	
	§	Examiner: **Apple, Kirsten Sachwitz**
Filed: **June 29, 2001**	§	
	§	
For: **User Rating System for Online**	§	
Auctions	§	

Commissioner for Patents
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35525
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

REPLY BRIEF (37 C.F.R. 41.41)

This Reply Brief is submitted in response to the Examiner's Answer mailed on August 1, 2007.

No fees are believed to be required to file a Reply Brief. If any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

I.   STATUS OF APPEAL

In a Final Office Action dated November 6, 2006, claims 1-10 and 12-34 were rejected under 35 U.S.C. § 103(a) as unpatentable over *Wellman,* System and Method for Matching Multi-Attribute Auction Bids, US Patent No. 6,952,682, dated October 4, 2005 (hereinafter *"Wellman ")* in view of *eBay* (Non-patent literature website), dated March 1, 2000 (hereinafter *"eBay".)*

On April 2, 2007, Appellants filed an Appeal Brief in response to the above-referenced Final Office Action. On August 1, 2007, an Examiner's Answer was mailed, presenting arguments in response to Appellants' Appeal Brief.

II.   RESPONSE TO EXAMINER'S ANSWER

A.   Group A (claims 1, 19, and 27)

Claim 1 is representative of the claims of Group A. Claim 1 is as follows:

> 1.   A method of rating an online auction user comprising the steps of:
> receiving personal information regarding the user;
> based on the personal information, obtaining objective information by a Registration Server about the user from a third party; and
> formulating an initial value by the Registration Server for a reliability rating based on at least the objective information.

In the Examiner's Answer, with respect to the formulating step recited in claim 1, the Examiner states:

> Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature "formulating an initial value"

> The examiner refutes these arguments and draw the attention to Wellman Figure 5A. It is important to review this figure in it's entirety which can be found in column 7 line 16-61. Item 504 "add assigned attributes" defines the items that go into to the calculation of Wellman. These are similar to that of the applicant "for example, buyer credit rating" (see Wellman column 7, line 24) these are then dues [sic] to "generate weighted bipartite graph." A graph is a "formula" or "calculation" which the applicant is trying to argue it is not. In item 512 it outputs optimal matches or initial values which are matched. The examiner argues that Wellman does what the applicant has claim but even takes it one step further by matching buyer and sells which the applicant does not claim.

Examiner's Answer dated August 1, 2007, p. 7.

The Examiner misconstrues Appellants' arguments, as is evident by the statement that, "a graph is a 'formula' or 'calculation' which the [Appellant] is trying to argue it is not." In contrast, Appellants argue only that block 408 in Figure 4 of *Wellman*, which states, "generating a weighted bipartite graph," does not teach or suggest the feature, "formulating an initial value...for a reliability rating based on at least the objective information," as recited by claim 1. Appellants' argument is simply that *generating a weighted bipartite graph* is not the same as *formulating an initial value for a reliability rating*, as was previously discussed in Appellants' Appeal Brief. For example, *Wellman* teaches that the weighted bipartite graph is generated using, among other things, reliability ratings and thus, the generation of the weighted bipartite graph cannot be *"for* a reliability rating" since the weighted bipartite graph *includes* the reliability rating. For example, *Wellman* discloses:

> All buyer and seller offers or bids submitted during a certain time period are collected in step 502. Any preassigned attributes are added to the offers in step 504. For example, buyer credit ratings may be assigned to each buyer and/or seller reliability ratings may be assigned to each seller such that the buyer credit and seller reliability rating attributes must match those specified by the seller and buyer, respectively.
> A best match or a best matching pair of offers between each buyer and each seller is determined in step 506.
> ...
> After the best match between each buyer and each seller is determined in step 506, a weighted bipartite graph is generated in 508 using the results of step 506. The weighted bipartite graph is in turn used to determine a maximal weighted matching in step 510.

Wellman, col. 7, ll. 22-57.

This portion of *Wellman* expressly discloses that the weighted bipartite graph includes reliability ratings such as the buyer credit rating and the seller reliability rating. As discussed above, because the weighted bipartite graph *includes* reliability ratings, the weighted bipartite graph is not generated *for* a reliability rating. Furthermore, *Wellman* explicitly teaches that the weighted bipartite graph is used for determining a maximal weighted matching. In particular, *Wellman* discloses, "The weighted bipartite graph is in turn used to determine a maximal weighted matching in step 510." (*Wellman*, col. 7, ll. 55-57.) Consequently, the Examiner's counterargument that *Wellman* teaches or suggests the feature, "formulating an initial value...for a reliability rating based on at least the objective information," as recited by claim 1, is without

merit.

Appellants also argued that *eBay* also did not teach or suggest this formulating step. In response, the Examiner states:

> The applicant then argued that ebay does not "formulating an initial value by the Registration -Server for a reliability rating bases on at least the objective information." The examiner refutes this argument. ebay clearly formulates and initial value as can be seen from the "Feedback rating system is easy. You receive +1. .." These points are used to calculate or formulate feedback rating or reliability rating. Clearly adding and subtracting points is "formulating an initial value".

Examiner's Answer dated August 1, 2007.

Regardless of whether or not "adding and subtracting points is 'formulating an initial value'," as asserted by the Examiner, *eBay* does not teach the formulating step of claim 1 because the feedback rating system of *eBay* is based only upon subjective information, rather than the objective information as is recited by claim 1. For example, *eBay* discloses that, "Every eBay user has a Feedback Profile made up of comments from other traders – an official 'reputation'." (*eBay*, p. 1.) The official reputation is based upon prior subjective experiences of other eBay users with a seller to form a Feedback Profile. In other words, a reputation is built upon subjective information. Consequently, the Feedback Profile of *eBay* is not a reliability rating as disclosed by claim 1 because the Feedback Profile is not generated using any objective information. Therefore, the Examiner's argument that *eBay* teaches the feature, "formulating an initial value by the registration server for a reliability rating based on at least the objective information," as recited by claim 1, is without merit.

B.   Group E (claims 7, 17, 25, and 33)

Claim 7 is representative of the claims in Group D. Claim 7 is as follows:

> 7.   The method of claim 1, wherein the reliability rating includes at least one of a buying limit and a selling limit.

The Examiner responds to Appellants' arguments regarding claim 7 by stating:

> Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature "buying and selling limit" The examiner refutes these arguments and draw the attention to Wellman Figure 3. As noted in the Final Office action price has a minimum and maximum amount. The applicant argues this is not the reliability rating. The examiner would like

> to note that each of the attributes have a variance or "buying and selling limit." While the reliability rating is a black box in the Wellman patent it is clear that more than one variable is used to determine the "buying and selling limits" based on the multiple variances. Therefore it is a fact that Wellman does contain a "buying and selling limit" for the "reliability rating"

Examiner's Answer dated August 1, 2007, p. 9.

In this passage, the Examiner argues that *Wellman* teaches or suggests the feature, "wherein the reliability rating includes at least one of a buying limit and a selling limit," as recited by claim 7. In supporting this argument, the Examiner is unable to point to a specific portion of *Wellman* as teaching or suggesting a reliability rating. Instead, the Examiner is relegated to argue that the reliability rating of *Wellman* is a "black box," further supporting Appellants' arguments that *Wellman* does not anticipate the features recited by claim 7. In addition, the Examiner argues that, because "more than one variable is used to determine the 'buying and selling limits' based on the multiple variances," *Wellman* must necessarily "contain a 'buying and selling limit' for the 'reliability rating'." Although Appellants are not entirely sure how the Examiner's logic supports the conclusion that "Wellman does contain a 'buying and selling limit' for the 'reliability rating'," at no point does the Examiner assert that the "black box" of *Wellman* actually *includes* a buying limit and a selling limit, as recited by claim 7. Instead, the Examiner asserts only that the *various attributes* include buying and selling limits and not the mystery "black box." Consequently, the Examiner has not refuted Appellants' argument that *Wellman* fails teach or suggest the feature, "wherein the reliability rating includes at least one of a buying limit and a selling limit," as recited by claim 7.

C.   Group F (claims 8, 18, 26, and 34)

Claim 8 is representative of the claims in Group E. Claim 8 is as follows:

> 8.   The method of claim 1, comprising the additional step of:
> presenting to the user a rationale for why the user received the initial value.

In responding to the arguments raised by Appellants in Appellants' Appeal Brief, the Examiner states:

> Appellant's argued that Examiner failed to state a prima facie obviousness
> rejection of feature "presenting to the user a rational for why the user
> received the initial value" The examiner refutes these arguments and draw
> the attention to Wellman Figure 5a. The examiner again states that a
> graph is a representation of the formulation or calculation that developed
> an initial value and match. In addition ebay contains "The Feedback
> Rating System is easy. You receive - +1 point for ... ." Clearly explaining
> the computation or rational for the rating. Ebay even has an example -
> Skippy received 125 point means that 125 positive comments. It is a fact
> that Wellman in view of ebay show "rational for why the user received the
> initial value."

Examiner's Answer dated August 1, 2007, p. 9.

The Examiner argues that *Wellman* teaches the feature, "presenting to the user a rationale

for why the user received the initial value" because *Wellman* teaches "generating a weighted

bipartite graph" in Figure 5A. However, because *Wellman* does not also teach that the weighted

bipartite graph in Figure 5A is presented to a user, the Examiner's argument that weighted

bipartite graph is a "rational" is irrelevant. In other words, even if the Examiner is correct that

the weighted bipartite graph in Figure 5A is a "rational," which it is not, because *Wellman* does

not disclose that the weighted bipartite graph is presented to a user, *Wellman* does not teach or

suggest the feature, "presenting to the user a rationale for why the user received the initial value,"

as recited by claim 8. In fact, the Examiner also seems to admit that *Wellman* does not teach

"presenting to the user a rationale for why the user received the initial value," as recited by claim

8 because the Examiner states:

> Wellman the initial value is used to match buyers and sellers directly – the
> Registration Server and reliability rating is a "black box" that individuals
> can not see their reliability rating *they only know the outcome of the match*.

Examiner's Answer dated August 1, 2007, pp. 7-8.

Thus, by the Examiner's own statement, individuals are presented only the outcome of

the match. If the individuals are presented only the outcome of the match, then those individuals

are not also presented with a rationale as to why the initial values were received. Consequently,

the Examiner has not refuted Appellants' argument that *Wellman* fails to teach or suggest the

features recited by claim 8.

III. CONCLUSION

In view of the above and the arguments presented in Appellants' Appeal Brief, Appellants respectfully submit that the pending claims are allowable over the cited art. Accordingly, Appellants respectfully request the Board of Patent Appeals and Interferences to overturn the rejections set forth in the Final Office Action dated November 6, 2006.

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